



County of San Bernardino

**FOR COUNTY USE ONLY**

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code		Dept. <b>CEN</b>	Contract Number <b>A</b>	
County Department <b>Land Use Services Department</b>			Dept. <b>CEN</b>	Orgn. <b>ENF</b>	Contractor's License No.
County Department Contract Representative <b>Ruth M. Rice</b>			Telephone <b>387-4148</b>		Total Contract Amount For a total amount not to exceed \$47,000
Contract Type <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:					
If not encumbered or revenue contract type, provide reason: _____					
Commodity Code		Contract Start Date <b>12/21/04</b>	Contract End Date <b>6/30/04</b>	Original Amount <b>\$47,000</b>	Amendment Amount
Fund <b>AAA</b>	Dept. <b>CEN</b>	Organization <b>ENF</b>	Appr. <b>200</b>	Obj/Rev Source <b>2445</b>	GRC/PROJ/JOB No. Amount <b>\$47,000</b>
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No. Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No. Amount
Project Name <b>Graffiti Removal Services</b>			Estimated Payment Total by Fiscal Year		
			FY	Amount	I/D
			<b>04-05</b>	<b>\$47,000</b>	

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Superior Property Services

hereinafter called **CONTRACTOR**

Address

1415 E. McFadden Avenue, Suite D

Santa Ana, CA 92705

Phone

Birth Date

714-285-1200

Federal ID No. or Social Security No.

33-0723535

**IT IS HEREBY AGREED AS FOLLOWS:**

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

**WHEREAS**, the County of San Bernardino (COUNTY) has an ongoing need for outside professional graffiti removal services from a qualified vendor who can provide professional and specialized graffiti removal services; and

**WHEREAS**, the COUNTY conducted a competitive process to find vendors able to provide the necessary services; and

**WHEREAS**, CONTRACTOR has shown an ability to perform these professional and specialized services.

**NOW, THEREFORE**, in consideration of the execution of this Contract, the parties mutually agree to the following conditions.

**I. CONTRACT**

This contract shall be for furnishing Graffiti Removal Services to the County of San Bernardino (the County) limited to servicing the following areas; **Area #1)** Second District unincorporated areas that qualify as having over 51% low-and

moderate-income residents, according to Census 2000 data from U.S. Department of Housing and Urban Development (HUD); **Area #2** San Sevine Redevelopment Project Area; and **Area #3** the following Flood Control areas; a) The New San Sevine Basin #1 Spillway, b) San Sevine Channel @ Victoria Street, c) San Sevine Channel @ West Liberty Parkway, d) Day Creek Basin #2 Spillway, e) Day Dam Spillway, f) Day Creek Channel @ 6<sup>th</sup> Street, g) Hillside Basin, h) Demens Channel & Spillway Basin #1, i) Cucamonga Dam Spillway, j) Cucamonga Channel @ 8<sup>th</sup> Street, k) West Cucamonga Channel (Below the 60 Freeway), l) Deer Creek Channel @ Haven Down Stream to 8<sup>th</sup> Street. Maps will be provided to Contractor.

## II. RATE

The quoted rates are based on Contractors response to the Request for Proposal issued by Land Use Services Department for Graffiti Removal Services on August 4, 2004.

## III. TERM

The contract term shall begin **December 21, 2004** and end **June 30, 2005**, unless terminated earlier as provided herein.

The County reserves the right to exercise the termination clause, and approve all changes to scope of contract as is deemed necessary to provide adequate service to all impacted areas of the County.

## IV. GENERAL CONTRACT PROVISIONS

### A. Definitions

1. "County" - The term when used herein, shall refer to the County of San Bernardino.
2. "Contract" - The term "Contract" shall refer to the legally binding contractual agreement to be entered into between the County and Superior Property Services, Inc., who has successfully completed their RFP proposal and have been awarded a bid by the County to provide said services, pursuant to the RFP procedures.
3. "Department" - The term when used herein, shall refer to the San Bernardino County Land Use Services Department (LUSD), as the duly authorized agent to act on behalf of the County in administering the County's LUSD policies, procedures and programs.
4. "Director" - The term when used herein, shall refer to the Director of the San Bernardino County Land Use Services Department (LUSD), or their duly authorized officers.
5. "Division" - The term when used herein, shall refer to the County LUSD/ Code Enforcement Division (CED).
6. "Officer" - The term when used herein, shall refer to the LUSD/CED individual personnel who has been duly appointed, and fully authorized by the Director to represent the County in any field and/or administrative office capacity, with respect to any Graffiti Removal Services matters.
7. "Contractor" - The term when used herein, shall refer to Superior Property Services, Inc. who has successfully been awarded the bid to provide Graffiti Removal Services to the County, as delineated in their "Request for Proposal Package". By accepting the award of bid, said Contractor has formally expressed an interest in entering into a legally binding contract agreement, subject to all conditions, covenants and restrictions outlined therein, to provide Graffiti Removal Services to and for the County of San Bernardino LUSD/CED.
8. "Subcontractor" - The term when used herein, shall refer to an individual, company, partnership or similar entity, that is working with, and solely under the jurisdiction of, the Contractor. The Contractor shall be solely responsible for any of their subcontractor's work, and at no time shall the County be held liable for any such work performed by any such entity or their employees.

## V. GOAL

Monitor and immediately abate graffiti sites on public property, or on private property in public view, in all unincorporated areas of the Second Supervisorial District of the County of San Bernardino. Provide proactive Graffiti Abatement services 5 days per week (8 hours per day) and on call services 7 days per week (during hours not classed as proactive service) in the Second Supervisorial District of the County of San Bernardino (map attached) and meet the following guidelines.

## VI. SCOPE OF SERVICES

Provide proactive Graffiti Abatement services 7 days per week in the Second Supervisorial District and meet the following guidelines.

### A. Graffiti Removal Services - General

1. Monitor and immediately abate, **an average of 400 graffiti sites per month (see V.A.13.)**, on public property, or on private property in public view, in all unincorporated areas of the Second Supervisorial District of the County of San Bernardino as designated in section I.
2. The contractor shall conduct graffiti removal services as follows:
  - a. Remove graffiti from all types of surfaces such as, but not limited to wood, metal, stucco, brick, concrete, cinder blocks, sidewalks, etc.
  - b. Remove graffiti which is vulgar (i.e., profane, obscene or racist) within 24 hours, seven days per week.
  - c. Use appropriate methods of covering or removing graffiti for the particular surface and conditions, such as water blasting, painting over, chemical solvents, etc.
  - d. Use County-approved chemical solvents when removing graffiti from all property, such as street light poles, traffic signs, control boxes, etc. Any chemical solvents utilized to remove graffiti shall have a Material Safety Data Sheet available for inspection.
  - e. Use drop cloths on all work assignments to protect sidewalks, vegetation, etc., from paint spillage.
  - f. Match the existing surface color when painting over or obscuring graffiti whenever possible. Paint shall be neatly feathered in all areas.
  - g. For privately owned property, the contractor shall obtain and retain the written consent of the owner or the owner's authorized agent before working on the property.
  - h. The contractor shall not allow any debris from its operations under this contract, especially from the water/sand blasting operations, to be deposited in the storm drains and/or gutters in violation of the National Pollutant Discharge Elimination System (NPDES).
  - i. The contractor shall maintain a record/log of all requests and constituent complaints. Records shall be available to the Departments upon request. The complaint log shall include the action taken to resolve the complaint.
  - j. Assist the Department with special requests (i.e., removal of graffiti before parades, community cleanups, etc.).
  - k. Graffiti found on commercial signage shall only be removed with the owner's/occupant's specific, written approval and with the owner's/occupant's understanding that the contractor is not responsible, under this contract, for replacing any original lettering, pictures, etc, on a commercial sign. With the owner's/operator's approval, the contractor shall proceed with diligence to remove the graffiti with as little damage to the commercial signage as is possible.
3. Graffiti Removal Services – Additional Specifications
  - a. Water-based and/or recycled paint shall be used.
  - b. Sidewalk surfaces: Removal of graffiti from concrete sidewalks shall be done using a water blasting machine with soda compound. Painting over shall not be permitted. The sidewalks shall be clean of all graffiti, graffiti residue and paint. The sidewalks shall be blocked off for safety during removal and areas being cleaned shall be feathered to match other graffiti-free sidewalk areas.

- c. Curb facing: Remove all graffiti paint from curb surfaces. The contractor shall use the paint color (red, green, or white) depending on original curb color and/or parking restrictions, as approved by the Department. Non-painted curbs shall be painted using concrete color paint or cleaned with water blasting machines.
- d. If surfaces are painted in red, red cover-up shall be used, as per County color.
- e. If surfaces are painted in green, green cover-up shall be used, as per County color.
- f. If surfaces are painted in white, flat white cover-up shall be used, as per County color.
- g. If surfaces are non-painted curbs, then concrete color paint shall be used on the curb face and flat area of the gutter.
- h. If surfaces have legal written designation, i.e., loading zones, bus zones, etc., once the graffiti has been removed, the written designation shall be repainted.
- i. Concrete light poles: Graffiti shall be removed from concrete light poles using a water blasting machine with a soda compound only. No paint will be used. All paint shall be removed from the pole.
- j. Wooden light poles: Graffiti shall be removed using a water-based brown paint to match the wood color. All paper signs shall be removed.
- k. Bus stops: All graffiti shall be removed using a graffiti removal spray on the plastic sides and sitting areas. The surfaces shall be washed with water. If graffiti has been placed over advertisements, then paint matching the ads' colors shall be used to cover the graffiti. If the bench is a natural concrete color, a water blasting machine with a soda compound shall be used and washed clean.
- l. Trees: All graffiti on trees shall be removed by using a water-blasting machine with a large spray tip so as not to damage or kill the tree by removing its bark.
- m. Concrete block walls: All graffiti shall be removed by either a water-blasting machine with soda compound or water-based paint. The paint over color shall match the wall color. Over spray on sidewalk or private property shall not be allowed.
- n. Brick walls: All graffiti shall be removed using a water blasting machine. Painting over shall not be done on a brick faced wall, unless the brick wall has been previously painted. The contractor shall match the paint to the previous color using water-based paint.
- o. Rock walls: All graffiti shall be removed using only a water blasting machine with soda compound. All paint shall be removed from rock face and mortar joints to match all other rock facing. No painting over shall be used unless the wall was previously painted. The contractor shall color match the paint to the previous color using water-based paint.
- p. Wooden fencing: All graffiti shall be painted over on wooden fencing using a water-based paint to match the color of the fencing. The contractor shall feather paint to match other parts of the fencing.
- q. Chain link fencing and pipe: All graffiti on pipes and fencing shall be painted over using a galvanized color to match the fencing fabric and pipe color. The paint-over color shall be feathered into the fabric and along the pipes.
- r. Metal fencing (sheets): All graffiti shall be removed from metal fencing. The paint-over color shall match other parts of the fence. Paint-over shall be a water-based color, painted and feathered to match other painted fenced areas. The contractor shall remove all paper signs before painting.
- s. Stucco-faced walls: All graffiti shall be painted over using a water-based color. The contractor shall match paint colors and feather the paint into other painted stucco areas. No paint over spray shall be allowed on sidewalks or private property.
- t. Asphalt or concrete (street): The contractor shall not be responsible for removing graffiti found on the asphalt or concrete portion of any street. The contractor shall immediately notify the Department if graffiti is found on the asphalt or concrete. Contractor shall be responsible for removing graffiti from the curbs and gutters.
- u. Road signs/stop signs: Wooden sign posts shall be painted using a flat white water-based paint. Galvanized signposts shall be painted using galvanized colored paint. All paper signs shall be removed from the posts before applying paint.
- v. Glass windows: All graffiti shall be removed from glass using a graffiti removal spray and water. The use of water blasting machines on glass shall be prohibited.
- w. Other concrete structures: Graffiti over-paint on concrete reinforced retaining walls, tunnel fronts and auto barrier walls shall be removed by using either a water blasting machine,

soda compound or water-based paint. Contractor shall match color to the color already painted on the surface. Contractors shall feather paint into already painted or non-painted surfaces.

4. Work Priority

- a. The contractor shall log all graffiti removal requests. Response shall be in the following priority:
  - i. Direct calls from Supervisorial District staff
  - ii. Requests from the Code Enforcement Graffiti Abatement Program Manager
  - iii. Direct constituent requests.

5. Communication

- x. The contractor shall be available at all reasonable times to report and confer with County staff with respect to these graffiti abatement services.
- y. County will provide a toll free number (877-442-2283 / 877-44ABATE) that is directed through AT&T to the Contractors place of business. This number will remain the property of County if the contract is terminated for any reason. Contractor will provide answering equipment, available 24 hours a day 7 days per week with a bilingual (Spanish/English) message, in order to receive service requests from County staff and/or the public for specific graffiti sites requiring clean up.
- z. Contractors must contact a 2<sup>nd</sup> District Supervisorial staff member and Code Enforcement, by email, a minimum of one time (1x) per week and provide the dates and addresses of all complaints and completed abatement jobs.

6. Response Criteria

All calls received from County staff and/or the public will require a forty-eight (48) hour response time or a penalty will be applied. The penalty will be calculated as follows: Invoice total divided by the number of sites abated during invoice period will equal average cost per site, times 5% of the average cost per site during the invoice period, times the number of sites not abated in the required time frame.

7. Vehicle Signage

The words in the following order: "San Bernardino County Second District Graffiti Abatement Program and the contractor's name or firm's name, together with the "hotline number" (877-442-2283 / 877-44ABATE) shall be printed in legible letters not less than two inches in height, on both sides of all trucks used in the district for these graffiti abatement services.

8. Recycled Paint Program

- a. The contractor must work with the Hazardous Waste Department and the recycled paint program. The contractor must agree to utilize recycled paint provided by Hazardous Waste whenever possible.
- b. In the event that the contractor utilizes recycled paint from the Hazardous Waste Department, the County will not be charged for materials.

8. Sub-contractors

- a. When the contractor intends to employ sub-contractors for any phase of the Graffiti Abatement, they shall make their intent known to the LUSD/ Code Enforcement Division at the time bids are submitted or at any future date that sub-contractors would be intended. Before sub-contractors may be utilized, the Director or authorized designee must grant approval.

- b. List of Resources & Sub-Contractors - (if applicable) Provide a listing of resources and sub-contractors that the prime contractor intends to use to adequately fulfill the terms of service requirements as outlined in a service Agreement.

9. Equipment

General Equipment Requirements:

3500 PSI Sandblaster and Waterblaster  
3000 PSI Pressure Washer  
Airless Paint Sprayers  
Compressor with Paint Guns

**VII. CONTRACTOR RESPONSIBILITIES**

A. GENERAL

1. The Contractor will perform the work as specified in the Graffiti Abatement Contract at the direction of the Department Director or authorized designee.
2. The Contracting Agency(ies), their Department(s), its officers, agents, volunteers and/or its employees, shall not be held liable for any loss, damage or injury of any kind or nature as may arise out of any acts, duties, obligations, or failure to do or perform such acts, duties or obligations on the part of the contractor, their subcontractors, agents, subsidiaries, and/or employees, under this contract. Similarly, the Contracting Agency individuals, as described above, will not be held liable for: A) any negligent acts, B) quality of workmanship, C) materials or equipment used in performing the work, D) nor for injury or damage to any person or persons, either workers or the public, E) nor for damage to adjoining property, from any cause whatsoever arising from any of the contractors' work performed under the terms of any subsequent contract.
3. The Contractor will be expected to process and consider all claims for damage or injury in a courteous manner and as promptly as conditions warrant.
  - a. The Contractor will be responsible for promptly answering inquiries and complaints of the Department, of private property owners, or citizens, relative to any work, charges, damage or any other questions that may arise as a result of abatement operations by the Contractor.
  - b. The Contractor shall immediately notify the Department in the event that fixtures, utilities, or other real property is damaged or destroyed by Contractor. When the Contractor, or responsible person, is unavailable to rectify the situation, the Department shall make necessary arrangements to repair the identified damaged or destroyed items if said damaged or destroyed items affect the health and/or well being of the property owner or adjacent property owners. The cost of such work shall be reimbursed to the County by the Contractor or payment for work performed by said Contractor may reflect suitable adjustments.

NOTE: Regardless, the Contractor is solely responsible for correcting, replacing or paying for all damages they cause to property, fixtures, or utilities, during the performance of their work.

4. It will be the sole responsibility of the Contractor to be fully informed of, and comply with, all existing County/City, State, and Federal requirements pursuant to any Laws, Statutes, and Regulations, which in any manner may affect those engaged or employed in the work or the materials used in the work, or which, in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

5. The Director or authorized designee shall make all decisions to any questions which may arise as to the quality or acceptability of work performed, as to the manner of performance and rate of progress of the work and all questions which arise as to the interpretation of the specifications. All work performed by the Contractor and their employees shall be done to the satisfaction of the Director or authorized designee.
6. The Department Director or authorized designee reserves the right to disallow use or deployment of any of the contractor's equipment, supplies, instruments or, their subcontractors, agents, subsidiaries, and/or employees in the execution of contracted Graffiti Abatement Services outlined herein. The Contractor may seek prior approval from the Department Director or authorized designee for any such issues, and prior approval granted shall be binding on County unless such utilization violates any County, State, or Federal Laws, Statutes or Regulations.
7. If the Department requests inspection, all equipment shall be made available prior to award of contracts. Unsatisfactory equipment will be rejected.
8. All equipment and tools are to be furnished, (fully operable), operated and maintained by the Contractor. There will be no extra charge made to the Department for the same. All fuel, materials supplies, etc., to perform the contract are to be furnished at no extra charge to the Department. Contractor shall have adequate reserve equipment available in case of breakdown. It will be made available within a forty-eight (48) hour period or a reasonable time as set by the Director or authorized designee.
9. All trucks and trailers used for transportation of equipment must comply with State Public Utilities Commissioner and Department of Transportation Regulations.
10. The Contractor will be responsible for meeting all provisions and/or regulations of the Occupational Health and Safety Act (O.S.H.A).

B. Documentation of Abatement Work Performed:

1. Documentation Photographs - Before and after any graffiti abatement work is performed on any site, the Contractor shall take clear and concise documentation photographs of the area demonstrating the need for graffiti abatement. These photos will be taken immediately "before" and "after" abatement work is completed. The electronic media photos (jpeg format) will be submitted to the Department prior to or along with any billing requests for the work performed.

NOTE: Digital photographic documentation is mandatory to justify work performed by the Contractor and for payment for said services to be made by the County. If, for whatever reason, the substantiation photographs do not adequately demonstrate justification for the Contractor's billing charges, the Officer or Director will not authorize payment on the billed amount. The Contractor is solely responsible for the quantity and quality of their work documentation photographs.

Each digital photograph shall include the time and date photo was taken and the approximate location it represents. The Contractor will furnish and maintain their own camera, photographic equipment, photo CDs, and envelopes in which to submit the documentation photos. Each "after" picture shall be taken from the same location as the "before" picture showing some outstanding point of reference landmark.

3. Timeframes - Abatement work must be completed, to the satisfaction of the Director or authorized designee, within forty-eight (48) hours after the work is issued by the Department or a call is received from the public.
4. Penalty - A penalty will be assessed for those sites not completed within the 48 hour required response time as stated in Section IV. (B) (4).

5. Discrepancies- Should a discrepancy arise as to the number of sites or quality of work done on the sites, the decision of the Director or authorized designee shall be final.

## **VIII. AGREEMENT TERMS**

### **A. GENERAL**

1. Representation of the County  
In the performance of the Contract, vendor, its agents and employees shall act in an independent capacity and not as officers, employees or agents of the County of San Bernardino.
2. Vendor Primary Contact  
Vendor will designate an individual to serve as the primary point of contact for the Contract. Vendor or designee must respond to County inquiries within two- (2) business days. Vendor shall not change the primary point of contact without written authorization from County. Vendor will also designate a backup point of contact in the event the primary is not available.
3. Change of Address and/or Phone Number  
Vendor shall notify the County in writing, of any change in mailing address or phone number within ten (10) business days of the change.
4. Contract Assignability  
Without the prior written consent of the County, the Contract is not assignable by vendor either in whole or in part.
5. Contract Amendments  
Vendor agrees that any alterations, variations, modifications or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the required persons.
6. Termination for Convenience  
The County for its convenience may terminate in whole or in part upon seven- (7) calendar day's written notice the Contract. If such termination is effected, an equitable adjustment in the price provided for in the Contract shall be made. Such adjustment shall provide for payment to the vendor for services rendered and expenses incurred prior to the effective date of termination. Upon receipt of termination notice vendor shall promptly discontinue services unless the notice directs otherwise. Upon such termination, the vendor shall deliver to the County all documents, drafts, reports, materials and work of any nature pertaining to this document and in the possession of the vendor or under its control. In such event, the vendor shall be paid for the work performed under the Contract to date of termination. Payment for work adequately completed under the Contract to date of termination shall be made strictly on the basis of the percent of work completed under the terms of this document. The percent of work adequately completed to date of termination shall be the percent of the total Contract sum of which will be paid to the vendor. The Land Use Services Department Director or his designee shall determine the percent of work adequately completed to date of termination. The total sum paid to the vendor in the event of Contract termination cannot exceed the total of the Contract as set forth in the Contract. In the event of termination, the County may complete any graffiti abatement work with its own staff or under an Contract with another party to do the same, in any event using any and all materials existing at such time. The Land Use Services Director, or authorized designee, shall have the power to exercise the County's right of termination under this paragraph.
7. Attorney Fees and Costs  
If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not



apply to those costs and attorneys' fees directly arising from a third-party legal action against a party hereto and payable under Section VI, 2, A, (Indemnification).

8. Venue

The venue of any action or claim brought by any party to this Contract will be the Central District Court of San Bernardino County. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party, the parties hereto agree to use their best efforts to obtain a change of venue to the Central District Court of San Bernardino County.

9. Jury Trial Waiver

Vendor and County hereby waive their respective rights to trial by jury for any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding, and/or hearing brought by either vendor against County or County against vendor on any matter arising out of, or in any way connected with this Contract, the relationship of vendor and County, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

10. Licenses and Permits

Vendor shall ensure that it has all necessary licenses and permits required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The vendor shall maintain these licenses and permits in effect for the duration of this Contract. Vendor will notify County immediately of loss or suspension of any such licenses and permits. Failure to maintain the required licenses/permits may result in immediate termination of the Contract.

11. Labor Laws

Vendor shall strictly adhere to the applicable provisions of the Labor Code regarding the employment of apprentices; minimum wages; travel and subsistence pay; retention and inspection of payroll records; workers compensation; payment of wages. The CONTRATOR shall forfeit to the County the penalties prescribed in the Labor Code for violations.

12. Notification Regarding Performance

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Agreement, the vendor shall notify the County within one- (1) working day, in writing and by telephone.

13. Conflict of Interest

Vendor shall make all reasonable efforts to ensure that no County officer or employee shall have any direct or indirect financial interest in this Contract or any relationship to Vendor or its officer or employees. In the event County determines that a conflict of interest situation exists, any increase in costs resulting from the situation, may be disallowed by the County and this Contract may be terminated.

14. Inaccuracies or Misrepresentations

If in the course of the RFP process or in the administration of a resulting Contract, the County determines that vendor has made a material misstatement or misrepresentation or omission that materially inaccurate information has been provided to the County during the RFP process, the Contract may be immediately terminated.

In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

15. Former County Officials

Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals,

partners, associates or members of the business. The information also includes the employment and/or representative capacity and the dates these individuals began employment with or representation of Contractor. For purposes of this section, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit, or Safety Management Unit. If during the course of the administration of this contract, the County determines that the Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this contract may be immediately terminated. If this contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

16. Confidentiality

Confidentiality of all programs, records, financial affairs, county relations to its customers and its employees, as well as any other information which may be specifically classified as confidential by the County of San Bernardino in writing to vendor is pursuant to all statutory laws relating to privacy and confidentiality as now in existence or as hereafter concerning any and all persons referred to vendor by the County shall be considered confidential and kept confidential by vendor and vendor staff, agents or employees. Upon request of County, vendor's staff may be required to sign and return a statement of confidentiality from each person having access to data while in the vendor's possession.

17. Improper Consideration

Vendor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding the award of this proposal.

The County, by written notice, may immediately terminate any Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once an Contract has been awarded.

Vendor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from vendor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

18. Recycled Paper Products

The County has adopted a recycled product purchasing standards policy (11-10), which requires vendors to use recycled paper for proposals and for any printed or photocopied material created as a result of a Contract with the County. The policy also requires vendors to use both sides of paper sheets for reports submitted to the County whenever practicable.

19. Artwork, Proofs and/or Negatives

All artwork, proofs and/or negatives in either print or digital format for this product are the property of the County of San Bernardino. These items must be returned to the County of San Bernardino within ten- (10) days, upon written notification to the vendor. In the event of a failure to return the documents, the County is entitled to pursue any available legal remedies. In addition, the vendor will be barred from all future solicitations, for a period of at least six- (6) months.

20. Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Vendor pursuant to this Contract shall be considered property of the County upon payment for services. All such items shall be delivered to County at the completion of the work under this Contract, subject to the requirements of Paragraph VI, 1, G (Termination for Convenience). Unless otherwise directed by County, Vendor may retain copies of such items.

21. Copyright

County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties developed under the Contract, including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of the Contract shall acknowledge San Bernardino County Land Use Services Department as the funding agency and vendor as the creator of the publication. No such materials or properties produced in whole or in part under the Contract shall be subject to private use, copyright or patent right by vendor in the United States or in any other country without the express written consent of County. Copies of all educational and training materials, curricula, audio/visual aids, printed material and periodicals assembled pursuant to the Contract must be filed with County prior to publication. Vendor shall receive written permission from County prior to publication of said training materials.

22. Legality and Severability

The parties' actions under the contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

B. INDEMNIFICATION AND INSURANCE REQUIREMENTS

1. Indemnification

The vendor agrees to indemnify, defend and hold harmless the County, their contract agencies and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of the Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim therefore, except where such indemnification is prohibited by law.

2. Insurance

Without in any way affecting the indemnity herein provided and in addition thereto, the vendor shall secure and maintain throughout the Contract the following types of insurance with limits as shown:

- a. Workers' Compensation - A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the vendor and all risks to such persons under this Contract.

If Contractor has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Risk Manager.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance. If the County's Risk Manager determines that there is no

reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.

- c. Comprehensive General and Automobile Liability Insurance - This coverage to include contractual coverage and automobile liability coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).
- d. Employee Automotive Liability Insurance - If the services to be performed under this agreement require Contractor's employee to drive a vehicle, Contractor's employee must possess a valid California driver's license at all times during the performance of this Contract Agreement. Contractor's employees are prohibited from driving County owned vehicles as part of the services performed.

In order for Contractor's employees to be able to use a private vehicle during the performance of this Contract Agreement, the Contractor's employees shall be covered by vehicle liability insurance at least equal to the minimum requirements of the California Vehicle Code.

Such requirements currently are:

- Fifteen Thousand Dollars (\$15,000.00) for single injury or death;
- Thirty Thousand Dollars (\$30,000.00) for multiple injury or death;
- Five Thousand Dollars (\$5,000.00) for property damage;

Contractor's Automobile Liability coverage will serve to augment Contractor's employees' vehicle liability coverage as per the specified limits of not less than one million dollars (\$1,000,000.00) per occurrence.

3. **Additional Named Insured**  
All policies, except for the Workers' Compensation policy shall contain additional endorsements naming the County, their contract agencies and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.
4. **Waiver of Subrogation Rights**  
The vendor shall require the carriers of the above required coverage's to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, vendors, and sub vendor.
5. **Policies Primary and Non-Contributory**  
All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
6. **Proof of Coverage**  
The vendor shall immediately furnish certificates of insurance to the County Department administering the Agreement evidencing the insurance coverage, including the endorsements above, required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department. Vendor shall maintain such insurance from the time vendor commences performance of services hereunder until the completion of such services. Within sixty- (60) days of the commencement of this Contract, the vendor shall furnish certified copies of the policies and all endorsements.
7. **Insurance Review**

The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore, unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation or any other item reasonably related to the County's risk.

Any such reduction or waiver for the entire term of the Contract and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to the Contract. Vendor agrees to execute any such amendment within thirty- (30) days of receipt.

C. Right to Monitor and Audit

1. Right to Monitor

The County and the State of California shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of vendor in the delivery of services provided under the Agreement. Vendor shall give full cooperation, in any auditing or monitoring conducted. Vendor shall cooperate with the County in the implementation, monitoring and evaluation of the Contract and comply with any and all reporting requirements established by the County.

In the event the County determines that vendor's performance of its duties or other terms of this Contract are deficient in any manner, County will notify vendor of such deficiency in writing or orally, provided written confirmation is given five- (5) days thereafter. Vendor shall remedy any deficiency within forty-eight- (48) hours of such notification, or County at its option, may terminate this Contract immediately upon written notice, or remedy deficiency and off set the cost thereof from any amounts due the vendor under this Agreement or otherwise.

2. Availability of Records

All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County, Federal and State representatives for a period of five (5)three years after final payment under the Contract or until all pending County, State and Federal audits are completed, whichever is later. Program data shall be retained locally (in the County) and made available upon request or turned over to County. If said records are not made available at the scheduled monitoring visit vendor may, at County's option, be required to reimburse County for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed \$50 per hour (including travel time) and be deducted from the following month's claim for reimbursement.

Records of the vendor, which do not pertain to the program, shall not be subject to audit unless provided for in another Contract.

**IX. VENDOR RESPONSIBILITIES/COUNTY RESPONSIBILITIES**

A. Invoices

1. Billing

- a. Invoices will be submitted monthly and are due by the 5<sup>th</sup> of each month. Invoices are required to be submitted within the month of abatement completion.
- b. Contractor invoice must include a list of dates and locations abated with all required digital photographs of work performed.

2. Payments

- a. The Department will process payments due on a monthly basis for all work completed to the satisfaction of the Director or authorized designee, to the best of its ability, and within the framework of Standard County Policies & Procedures.
  - b. Those complaints not completed within the forty-eight (48) hour required response time will have five percent (5%), of each billing invoice submitted to the County for payment, withheld from payment. The penalty will be calculated as follows: Invoice total divided by the number of sites abated during invoice period will equal average cost per site, times 5% of the average cost per site during the invoice period, times the number of sites not abated in the required time frame.
- B. **Supervision**  
The contractor shall provide adequate, competent supervision at all times during the performance of the Contract. To that effect, the assigned representative of the vendor and one or more alternates shall be designated in writing to the County prior to the Contract start. The contractor or his designated representative must be readily available to meet with County Personnel. The contractor shall provide the telephone numbers where its representative(s) can be reached.
- C. **Performance Evaluation Meetings**  
The assigned representative of the vendor shall be readily available to meet with representatives of the County weekly during the first month of the Contract and as often as necessary thereafter. A mutual effort will be made to resolve any problems identified at these meetings.
- D. **Nonconformance to Conditions/Specifications**  
Services will be inspected for compliance with specifications. Services not conforming to County's specifications may not be accepted or compensated by the County. Services not provided as per the scope of work may result in the vendor being found in default; in which event any and all re-procurement costs may be charged against the vendor. Any violation of these stipulations may also result in the vendor's name being removed from the County vendor mailing list.
- E. **Availability of Funds**  
In the event funds necessary to finance the purchase of the services are not available, the County may cancel the award and all binding Contract will become null and void upon no less than forty-eight (48) hours notice in writing to the vendor. Said notice shall be delivered by certified mail, return receipt requested. The County shall be the final authority as to the determination of the availability of funds.
- F. **Government Restrictions**  
In the event any governmental restrictions may be imposed which would necessitate alteration of the performance of services offered, it shall be the responsibility of the vendor to immediately notify the County in writing and specify the regulation which requires any alteration. The County reserves the right to accept any such alteration, including any reasonable price adjustments occasioned thereby, or to cancel the Contract at no expense to the County.
- G. **Facilities**  
The County reserves the right to inspect the vendor's facilities, equipment and work site at any time during normal business hours upon at least 2 business days' notice with consent or a warrant.
- H. **Availability of Records**  
The County, and any duly authorized representatives, shall have access to and the right to examine any and all pertinent books, records, documents, invoices, papers and the like, of the vendor, or in the possession of the vendor, which shall relate to performance of the services to be provided with consent or a warrant.
- I. **Standard of Conduct**  
The vendor shall be responsible for maintaining satisfactory standards of employees' competency, conduct, courtesy, appearance, honesty and integrity, and shall be responsible for taking such disciplinary action with respect to any employee as may be necessary.

J. Removal of Employees

The County may request the vendor to immediately remove from this assignment any employee found unfit to perform duties due to one or more of the following reasons:

1. Breach of this Contract or any neglect of duty.
2. Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions or fighting.
3. Theft, vandalism or any other criminal action.
4. Selling, consuming, possessing or being under the influence of intoxicants, including alcohol or illegal substances while on assignment for the County.
5. Attitudes or activities resulting in injury to the County or the public's perception of the County.

K. Travel & Equipment

Cost of travel to and from work shall be borne by the vendor. Vendor shall provide vehicles, mileage costs and equipment as needed to perform their assigned duties.

L. Taxes

The vendor shall assume, and is liable for, all State and Federal payroll and/or social security taxes, and any other taxes that may arise out of this Contract, and guarantees to hold the County harmless in every respect against same.

N. Conflict Resolution

To the extent possible, all conflicts shall be resolved between the Director of Land Use Services or authorized designee and the vendor's primary named representative.

O. Contract Administrator

For the purposes of the Contract, San Bernardino County shall be considered the Contract Administrator. There must be a written authorization from the County for any variance from the terms of this Contract. The County Land Use Services Director, or authorized designee, shall have the authority to exercise the rights of the County under this Contract, including cancellation of this Contract on behalf of the County in accordance with section VI(1)(G).

P. Waiver of Provisions

No waiver of a breach of any provision of this Contract shall constitute a waiver of any other breach, or of such provision. Failure of the vendor or the County to enforce at any time, or from time-to-time, any provision of this Contract shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.

Q. Validity of Contract Provisions

The invalidity in whole or in part of any provisions of this Contract shall not void or affect the validity of any other provision.

**X. CONTRACT COMPLIANCE/EQUAL OPPORTUNITY**

Vendor agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and rules and regulations adopted pursuant thereto: Executive Order 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, County Policy 11-15, and other applicable Federal, State, and County laws, regulations and policies, including laws and regulations hereafter enacted. vendor shall not unlawfully discriminate against any employee, applicant for

employment, or service recipient on the basis of race, national origin or ancestry, religion, sex, marital status, age, political affiliation or disability.

Vendor shall make every effort to ensure that all work funded wholly or in part by CDBG funds shall provide equal employment and career advancement opportunities for minorities and women. In addition, Vendor shall make every effort to employ residents of the area and shall keep a record of the positions that have been created directly or as a result of this program.

#### **XI. CONTRACT REVIEW**

The County reserves the right to review the scope of work required on a yearly basis.

#### **XII. CONTRACT COMPLETION**

In the opinion of the Director or authorized designee, if the contractor is not progressing at a satisfactory rate, said Director or authorized designee may, at their discretion, designate an alternate County Contractor to work with the primary County Contractor originally awarded the bid area. The County reserves the right to withhold payment to Contractor, in whole or in part, as may be deemed sufficiently necessary to reimburse the alternate Contractor for completing the abatement work required.

#### **XIII. CONTRACT TERMINATION**

The County of San Bernardino reserves the right to terminate any or all contracts at any time, due to lack of work, rate of progress, Contractor's solicitation for private work, or any other illegal or illicit acts.

#### **XIV. NOTIFICATION OF TERMINATION**

In the event the County exercises the right to terminate the contract for dissatisfaction, the County will give the Contractor three (3) days written notice of such termination.

Should the Contractor cancel, for any reason, all or a portion of the services covered by the contract, a thirty-day (30) written notice must be given to the County. The written notice shall be provided to the County Land Use Services Department.

#### **XV. EMPLOYMENT RESTRICTION**

The Contractor shall not employ any person that is currently working for the County Land Use Services Department (LUSD).

#### **XVI. PRICE GUARANTEE AND PRICE ESCALATION**

- A. All prices will be considered firm for the entire period of the Contract unless otherwise stated.
- B. Should the minimum wages, social security, state disability or SUI increase, the right is reserved to Contractor to adjust prices accordingly in accordance with the policies and procedures stated herein. Other significant cost increases beyond the control of the Contractor shall be presented to the Director or designee for review and approval, prior to making any contract adjustments.
- C. Written requests for Contract adjustments, modifications, revisions or cost increases must be submitted to the County at least thirty (30) days in advance of any price adjustment being made to the contract.
- D. No retroactive price adjustments shall be permitted.
- E. In the event a request for a price adjustment is submitted, the County shall have the discretion to take various actions, including but not limited to the following:
  - 1. Accept the price adjustments and continue performance of the contract through the initial term;



2. Negotiate price adjustments with the Contractor;
3. Terminate the contract prior to the completion of the initial term of the contract.

F. No price adjustments shall be effective without the prior written approval of the County.

## **XVII. DISPUTE RESOLUTION**

In the event a dispute arises concerning the work performed in support of the contract terms, the party wishing resolution of the dispute shall submit a request in writing to the Director of Land Use Services within ten (10) days of the disputed occurrence. Failure to do so within the prescribed timeframe waives any objection. The Director or authorized designee shall consider the request and respond in writing within ten (10) working days. The decision of the Director or authorized designee with respect to such matters of fact is final, and is not subject to further interpretation.

## **XVIII. ENTIRE AGREEMENT**

This agreement shall be governed by the laws of the State of California and constitutes the entire agreement between the parties and supersedes all prior negotiations, discussions, and preliminary understanding. This agreement may be amended as County and the Customer mutually agrees in writing. Any such amendment must be signed/approved by authorized representatives of the County and Customer.

## **XIX. NOTIFICATIONS**

All notices or demands required or permitted to be given or made hereunder shall be in writing and shall be deemed duly given:

1. Upon actual delivery, if delivery is by hand; or
2. Upon receipt by the transmitting party of confirmation or answer back if delivery is by telex, telegram or facsimile; or
3. Three days following delivery into the First Class United States mail.

Each such notice is to be sent to the respective party at the address indicated below or to any other address or person that the respective party may designate by written notice delivered pursuant hereto:

Customer: Superior Property Services, Inc.  
1415 E. McFadden Avenue Suite D  
Santa Ana, CA 92705

County: Land Use Services Department  
385 N. Arrowhead Avenue, Third Floor  
San Bernardino, CA 92415-0187  
Attn: Administration

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the date set forth below their respective signatures.

COUNTY OF SAN BERNARDINO

Superior Property Services, Inc.

►

Dennis Hansberger, Chairman, Board of Supervisors

By ►

*(Authorized signature - sign in blue ink)*

Dated: \_\_\_\_\_

Name \_\_\_\_\_

*(Print or type name of person signing contract)*

SIGNED AND CERTIFIED THAT A COPY OF THIS

DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors  
of the County of San Bernardino.

By \_\_\_\_\_  
*Deputy*

Title \_\_\_\_\_ President \_\_\_\_\_  
*(Print or Type)*

Dated: \_\_\_\_\_

Address \_\_\_\_\_ 1415 E. McFadden Avenue  
\_\_\_\_\_  
Santa Ana, CA 92705

Approved as to Legal Form

► \_\_\_\_\_  
County Counsel (Paymon Bidari, Deputy)

Date \_\_\_\_\_

Reviewed by Contract Compliance

► \_\_\_\_\_

Date \_\_\_\_\_

Presented to BOS for Signature

► \_\_\_\_\_  
Department Head

Date \_\_\_\_\_